

# **EXHIBIT A**

2011.01.21 Trial Transcript Day 12 1/21/2011 8:22:00 PM

2011.01.21 Trial Transcript Day 12 1/21/2011 8:22:00 PM

<p>2849</p> <p>1 THE COURT: Is that what the case holds? That's what 2 this case holds -- that's what this case about the travel 3 candle holds, that, in fact, there was no evidence that the 4 travel candle was used in the infringing way.</p> <p>5 MR. ROBERTSON: There's amble evidence in this case 6 that it's used in the infringing way, both from Mr. 7 Christopherson and --</p> <p>8 THE COURT: Here's the bottom line. I'm the finder 9 of the fact. I would clearly find that there is infringement 10 of everything that Dr. Weaver said, that each system infringed 11 each claim for the reasons he stated. There isn't any question 12 that I would do that.</p> <p>13 But I'm not the finder of the fact. So under these 14 facts, under the evidence in this case, don't I have to let the 15 jury decide that case and then come back at the end of the day 16 and see whether that's right? So what I'm inclined to do is 17 reserve judgment on this motion, because I will tell you -- I 18 personally am having real trouble deciding why there's any 19 defense to infringement at all.</p> <p>20 MR. ROBERTSON: I understand.</p> <p>21 THE COURT: But I believe that I do have to let the 22 case go to the jury subject to my ability to control that, and 23 I'm going to take this motion under advisement, deny the motion 24 of no infringement by Lawson, keep your motion under 25 advisement.</p>	<p>2851</p> <p>1 THE COURT: All right.</p> <p>2 MS. HUGHEY: Hello, Your Honor. May it 3 please the Court. Lawson moves for judgment as a 4 matter of law on the issue of invalidity because a 5 reasonable jury does not have a reasonable evidentiary 6 basis to find for ePlus on the issue.</p> <p>7 At trial documents demonstrated and witnesses 8 testified --</p> <p>9 THE COURT: Now, there are three grounds of 10 invalidity. One is anticipation.</p> <p>11 MS. HUGHEY: Correct.</p> <p>12 THE COURT: One is obviousness.</p> <p>13 MS. HUGHEY: Correct.</p> <p>14 THE COURT: And the other is written 15 description.</p> <p>16 MS. HUGHEY: No, Your Honor, Lawson is not 17 asserting written description.</p> <p>18 THE COURT: That was there at one time.</p> <p>19 MS. HUGHEY: Correct.</p> <p>20 THE COURT: That's no longer there. So I 21 don't need to deal with that one.</p> <p>22 MS. HUGHEY: Correct.</p> <p>23 THE COURT: So you have anticipation and 24 obviousness.</p> <p>25 MS. HUGHEY: Correct, Your Honor. At trial</p>
<p>2850</p> <p>1 MR. ROBERTSON: I understand, Your Honor. Thank you.</p> <p>2 THE COURT: All right, now, invalidity. I believe 3 that -- Ms. Hughey, are you doing that one, too?</p> <p>4 MS. HUGHEY: I am, Your Honor, and I promise to be 5 much slower this time.</p> <p>6 THE COURT: Because if you don't, you're going to get 7 knee-capped but not buy me.</p> <p>8 Let's see. Is this a good place for the court 9 reporters to switch and for us to take a little recess?</p> <p>10</p> <p>11 (Recess taken.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>2852</p> <p>1 the documents demonstrated and the witnesses testified 2 regarding the features and functionality of the prior 3 art RIMS system disclosed in the '989 patent.</p> <p>4 THE COURT: Let's take the anticipation.</p> <p>5 What is it that anticipates?</p> <p>6 MS. HUGHEY: The RIMS system alone 7 anticipates every single claim of the patents-in-suit.</p> <p>8 THE COURT: All right.</p> <p>9 MS. HUGHEY: In combination, the RIMS system 10 and the TV/2 product render every single one of the 11 claims of the patents-in-suit obvious.</p> <p>12 Dr. Shamos went through every single claim 13 and explained both the anticipation and obviousness 14 analysis. The evidence at trial further demonstrated 15 that both systems are prior art.</p> <p>16 The combination of RIMS plus TV/2 renders 17 every single asserted claim of the patents-in-suit 18 obvious. The preferred embodiment disclosed in the 19 patents is the combination of RIMS plus TV/2 and the 20 Court's construction is consistent with that.</p> <p>21 The TV/2 literature specifically says to 22 combine TV/2 with the parts ordering system and 23 inventory management system. The RIMS system 24 disclosed in the '989 patent was a part ordering and 25 inventory management system.</p>

## 2011.01.21 Trial Transcript Day 12 1/21/2011 8:22:00 PM

3006	3008
1           MR. CARR: Exactly.	1           will go back to the jury.
2           THE COURT: Absent evidence to the contrary.	2           THE COURT: I asked you to do a list of the things.
3           MR. ROBERTSON: I'm not concerned about J-CON and PO	3           MR. CARR: We're very close. We've been working with
4           Writer. We're concerned about these other references that at	4           Mr. Neal on that. We only have two issues that we want to
5           least the Court has taken under reservation on our JMOL that	5           bring to you. The first is the license agreements. There are,
6           may not be invalidating, but if it's a black box, we will never	6           I think, four or five plaintiff's exhibits that are the license
7           know, and the Court will not be able to address the JMOL issue	7           agreements.
8           that's still pending after the verdict.	8           THE COURT: You mean --
9           THE COURT: All right. Anybody have anything else?	9           MR. CARR: SAP, Ariba, Verian, SciQuest, Perfect
10          MR. CARR: Other than what is prior art is in the	10          Commerce. We don't feel that those should go back to the jury.
11          instructions.	11          Remember you dealt with those exhibits that were on the screen
12          THE COURT: Yes.	12          and you took them off I screen, I think it was yesterday?
13          MR. CARR: So that last concern, I don't see it.	13          THE COURT: Yes, I remember. Why do they need to go
14          THE COURT: I think it's a good idea to have them	14          back to the jury?
15          separated out by anticipation and by obviousness, and you could	15          MR. CARR: Exactly.
16          make their job easier by listing that which is contended to be	16          MR. ROBERTSON: Your Honor, we want them to see the
17          and have them say yes or no.	17          licensing terms, what was cross-licensed, and we've offered to
18          MR. ROBERTSON: We'll take a stab at that, Your	18          redact anything that has to do with the litigation, so all they
19          Honor, and we'll get it to them early tomorrow, like 6:00 a.m.	19          see is the patents, the consideration we got in response, all
20          when you get up, Ms. Stoll-DeBell.	20          of the Ariba licenses -- excuse me, patents that they had, so
21          MS. STOLL-DeBELL: Not tomorrow.	21          the jury understands the significance of the commercial
22          MR. CARR: Is that something you need tomorrow?	22          success. They have a document in their hand, and they can see
23          THE COURT: I'm going -- I don't need it tomorrow	23          the numbers that resulted --
24          because my secretary is not going to be doing it. She is going	24          THE COURT: You'll redact the things that have to do
25          to be doing the instructions, and she's coming in tomorrow to	25          --

3007	3009
1          do that.	1          MR. ROBERTSON: Anything that has to do with
2          MR. CARR: If we get you the verdict form over the	2          litigation will not be there, and we'll give that to them in
3          weekend, that would be sufficient because we're going to be	3          advance, and if they have any further issue, we'll address that
4          doing it.	4          and redact further.
5          THE COURT: As long as you all -- you understand what	5          THE COURT: I don't see any problem with that.
6          I'm saying to do?	6          MR. ROBERTSON: The only other issue we have with
7          MR. CARR: To break it out --	7          respect to an exhibit, you may recall there was DX --
8          THE COURT: Break it out by anticipation and	8          MR. CARR: We haven't resolved the license agreement
9          obviousness --	9          yet. We don't agree to that redaction. We think it should be
10         MR. CARR: And call out the references.	10         all or nothing, and we don't think --
11         THE COURT: That is one way to do it. The way this	11         THE COURT: Well, I think it's fair to have a
12         is done is it requires them to specify the references. I think	12         redacted version. Why do you think taking the litigation out
13         it is easier for them to decide if you identify the references	13         of it is -- it's going to have settlement agreement, and
14         and say yes or no.	14         they've already been told that it was the product of
15         MR. CARR: Okay. That's what we would prefer. I	15         litigation.
16         don't want to have to make the jury fill in the reference. We	16         MR. CARR: And they had detailed testimony from Mr.
17         will put the reference in, and they can say yes or no.	17         Farber about it, so they can argue that. They don't need the
18         MR. ROBERTSON: Mr. Carr, let's confer about it if we	18         license agreements in addition to what testimony is already in
19         can. I don't want to get into something that opens up a bigger	19         the case, and that's why you took it off the screen.
20         can of worms. I'd like to have a meet-and-confer and see if we	20         THE COURT: I took it off the screen because the
21         can come to agreement.	21         litigation stuff was in there, and I thought that was going to
22         THE COURT: Be careful for which you ask. Does that	22         be confusing. I didn't have any objection to or wasn't trying
23         take care of what we're doing here?	23         to address the terms of the agreement. It was the context in
24         MR. CARR: We have one more issue to bring up with	24         this which the terms were presented which was -- the whereas
25         Your Honor, and we have been talking about the exhibits that	25         clauses and the releases, I believe, and there were other